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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/689,975

10/21/2003

Jay S. Walker

02-081

4444

22927

7590

08/20/2008

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EXAMINER

HSU, RYAN

ART UNIT

PAPER NUMBER

3714

MAIL DATE

DELIVERY MODE

08/20/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/689,975	Applicant(s) WALKER ET AL.	
	Examiner RYAN HSU	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

In response to the amendments filed on 5/19/08, claims 6, 12, 26, 32, 36, and 41 have been amended and claims 43-44 have been newly added. Claims 1-44 are pending in the current application.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Webb (US 6,632,141 B2) and further in view of Baerlocher et al. (US 6,506,118 B1).

Regarding claims 1-28, 31-37, and 39-44, Webb teaches a method comprising receiving at a gaming device a wager for initiating a game play of a game wherein the game play comprises a predetermined number of rounds of the game and wager is an amount sufficient to pre-pay for the predetermined number of rounds (*ie: the players wager and a predetermined event enters into the bonus game*). Additionally, Webb teaches prior to the bonus game an initial balance of winnings (*ie: winnings of the primary game*) wherein the initial balance of winnings is greater than the amount of the wager (*see Fig. 3(a-i) and the respective related description thereof*). Additionally, Webb teaches establishing a credit meter balance that is distinct from the initial balance of winnings and determining a predetermined number of outcomes the predetermined number of outcomes comprising at least one respective outcome for each of the

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predetermined rounds (*ie: number of picks = rounds in the game*) (*see Figs. 3(a-b) and the respective related description thereof*). Furthermore, Webb teaches that at least one of the outcomes of the predetermined number of outcomes comprises an outcome that grants a privilege to the player wherein the privilege comprises at least one of: permission to avoid an effect of an outcome of the determined outcomes; a reduction in the predetermined number of rounds; and an increase in the final balance of winnings (*see anti-terminators [168] of Fig. 3(a-i) and the respective related description thereof*). The privilege taught in Webb also has the limitation of being applied to the game play at the time the privilege is obtained and in response to a command from the player to do so wherein the privilege has associated therewith at least one constraint comprising at least one of: a) a predetermined number of rounds (*see pick(s) remaining [164]*), from a round within which the privilege is obtained, within which the privilege must be applied; b) a predetermined number of game plays, from a game play within which the privilege is obtained, within which the privilege must be applied; or c) a predetermined period of time, from a time at which the privilege was obtained, within which the privilege must be applied. It is also noted that in Webb the privilege is stored on an indication meter with an identifier of the player for future use by the player (*see anti-terminators [168]*). Webb further teaches that the at least one of the outcomes causes the current balance of winnings to be stored and accessed by game machine to choose from a plurality of obtainable outcomes where each of the obtainable outcomes corresponds to a respective effect on the game play (*see col. 6: ln 25-col. 9: ln 15*). The effects of Webb's game have at least one outcome that causes the player to obtain an outcome that is less than the initial offer. This causes the current balance of winnings to be less than the initial balance of winnings. The different effects on the game

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play taught in Webb are to provide an entertaining journey to determine a final balance of winnings that will be made to the player. While Webb allows the player to cash out the current balance of winnings before the number of rounds has been concluded he does provide the provision that if the rounds have ended and the player has not cashed out they are left with the final offer. Providing a player with the inability to cash out is simply a matter of DESIGN CHOICE and would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate such a feature. It would cause the expected result of forcing a player to continue playing all the way through the games. However, Webb is silent with respect to providing a game play that ends with the player winning a fractional amount.

In a related gaming patent, Baerlocher teaches an offer/acceptance game that introduces award modifiers. The modifiers in Baerlocher can take the form of a positive or negative modifier. When a player selects a negative modifier it reduces the award to a fractional amount of what it was before (*ie: -1 = -25 credits*) (*see col. 8: ln 5-52*). One would be motivated to incorporate such a feature as it provides the player with the excitement of risking the award for greater gains. As taught in Baerlocher the game may be adjusted to offer higher awards for potentially higher risk and therefore would be more exciting for the user. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Webb with the teachings of Baerlocher to provide a negative modifier and therefore a fractional result in a game.

Regarding claims 29-30, Webb teaches a game the comprises automatically initiating during the predetermined amount of time, rounds of the game a predetermined rate (*ie: 3 picks at a time*). Additionally, the method determined a number of outcomes comprising receiving from

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the player a command to initiate a round of the game and determining an outcome in response to the command (*ie: the player makes a pick and then an outcome is generated*) (*see Figs. 3(a-e) and the respective related description thereof*).

Regarding claim 38, Baerlocher teaches a method wherein adjusting the initial balance of winnings comprises determining based on at least one of the determined outcomes, that adjusting the initial balance of winnings would result in a negative balance of winnings and setting the current balance of winnings to be zero (*see Figs. 3-4 and the respective related description thereof*).

Conclusion

Any inquiry concerning this communication or earlier communication from the examiner should be direct to Ryan Hsu whose telephone number is (571)-272-7148. The examiner can normally be reached on M-F 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E Pezzuto can be reached at (571)-272-6996.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, contact the Electronic Business Center (EBC) at 1-866-217-9197 (toll-free).

RH

August 18, 2008

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/Robert E Pezzuto/

Supervisory Patent Examiner, Art Unit 3714